

PATENT APPLICATION

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re application of

Docket No: Q80984

Olivier MARTINOT, et al.

Appln. No.: 10/825,243

Group Art Unit: 2477

Confirmation No.: 7788

Examiner: Nima MAHMOUDZADEH

Filed: April 16, 2004

For: A DEVICE FOR MANAGING PARAMETER MEASUREMENT IN END-TO-END
TYPE DATA STREAMS IN A MULTIDOMAIN COMMUNICATION NETWORK

REPLY BRIEF PURSUANT TO 37 C.F.R. § 41.41

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents

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Sir:

In accordance with the provisions of 37 C.F.R. § 41.41, Appellant respectfully submits this Reply Brief in response to the Examiner's Answer dated October 18, 2010. Entry of this Reply Brief is respectfully requested.

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STATUS OF CLAIMS

1. Claims 1-18, 20-25, and 27-29 are all the claims pending in this application and were all rejected in the Final Office Action dated September 16, 2009.
2. Claims 19 and 26 are canceled.
3. A Notice of Panel Decision dated June 9, 2010 from the Pre-Appeal Brief Review indicates that claims 9-15 are objected to.
4. Based on an interview with the Examiner conducted May 20, 2010 (see Interview Summary dated May 26, 2010), it is Appellant's understanding that claims 9-15 contain allowable subject matter. Accordingly, claims 9-15 are not on Appeal.
5. Claims 1-8, 16-18, 20-25, and 27-29 are subject to this Appeal.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

- 1. Claims 1-8, 16-18, 20-22, 25, 28, and 29** are rejected under 35 U.S.C. § 103(a) as being unpatentable over Iwama (U.S. Patent No. 6,600,735) in view of Gous (U.S. Patent Application Publication No. 2002/0194316).
- 2. Claims 23 and 24** are rejected under 35 U.S.C. § 103(a) as being unpatentable over Iwama, Gous, and Maher (U.S. Patent No. 5,381,403).
- 3. Claim 27** is rejected under 35 U.S.C. § 103(a) as being unpatentable over Iwama, Gous, and Muirhead (U.S. Patent Application Publication No. 2003/0123446).

ARGUMENT

Appellant respectfully requests the Board to reverse these grounds of rejections at least for the reasons set forth in the Appeal Brief filed July 29, 2010 (hereinafter “Appeal Brief”). Furthermore, Appellant responds to certain points of the Examiner’s position provided in the Examiner’s Answer mailed October 18, 2010 (hereinafter “Answer”) as follows.

1. Claims 1-8, 16-18, 20-22, 25, 28, and 29 are not unpatentable over Iwama and Gous

Appellant respectfully submits that claims 1-8, 16-18, 20-22, 25, 28, and 29 are improperly rejected under 35 U.S.C. § 103(a) as being unpatentable over Iwama and Gous.

The Examiner addressed the arguments set forth in the Appeal Brief with respect to claims 1-8, 16-18, 20-22, 25, 28, and 29 on pages 19 to 31 of the Answer.

Claim 1

A. The Examiner alleges that calculating the bandwidth for the nodes, as taught by Gous, corresponds to the claimed “ordering constitution of a specific measurement configuration in each measuring appliance.” The Examiner further contends that having or not having the bandwidth allocated to the node can be interpreted as a specific measurement configuration. (See Answer, page 20, last 3 lines – page 21, paragraph 1).

The Examiner’s position is addressed in greater detail below.

Gous describes that if connection does not go through the element, the bandwidth is 0. If a connection goes through the element, the allocated bandwidth is the maximum bandwidth. (Paragraph 42).

Accordingly, Gous may be describing configuring the connection routes through some elements and not the others. The bandwidth is not allocated to the elements through which the connection does not pass. However, Gous does not describe constitution of the specific measurement configuration based on a specific measuring process of a corresponding node and overall measurement specifications, as claimed.

The bandwidth matrix of Gous may be calculated based on the allocated bandwidth. However, the bandwidth matrix of Gous is not created as a function of the measuring process of

the alleged measuring appliance (the node). Nor it is a function of the measuring process and overall measurement specifications.

Calculating the bandwidth allocation matrix and configuring the nodes according to the matrix, as described in Gous, is not the same as or an equivalent of “ordering constitution of a specific measurement configuration in each measuring appliance as a function of a corresponding measuring process of a respective measuring appliance and overall measurement specifications.”

B. The Examiner discusses in length the acknowledgment described by Gous. (*See Answer*, middle of page 22 - page 23, paragraph 1).

In FIG. 7, Gous clearly shows the acknowledgment to contain a source node label and a success field which indicates a successful completion of the changeover sequence.

However, claim 1 recites “calculation means for determining data representative of the parameter values of overall end-to-end data streams from local measurements delivered by the configured measuring appliances.” Accordingly, this acknowledgment message, which indicates a success of the changeover sequence, cannot serve to determine “data representative of the parameter values of overall end-to-end data streams,” as claimed.

C. The Examiner alleges that Iwama’s element 1705, which performs the bandwidth reservation and cancellation based on the RSVP procedure, corresponds to the claimed measuring appliance. (*See Answer*, page 23, paragraph 2).

Appellant does not disagree that **Iwama** describes element 1705 which enforces the bandwidth reservation and cancellation via the RSVP procedure.

However, Iwama does not teach or suggest that element 1705 executes a measuring process to collect and deliver the local measurements of a local end-to-end data stream, as claimed.

D. The Examiner asserts that the proposed combination will achieve the subject matter of claim 1 since Iwama describes managing the bandwidth and Gous teaches “a method to reconfigure a connection-oriented network from an existing configuration to a desired configuration.” (*See Answer*, page 25, paragraph 3).

However, claim 1 is not directed to managing and allocating the bandwidth by reconfiguring “a connection-oriented network from an existing configuration to a desired configuration.”

Accordingly, even if Iwama is combined with Gous, as proposed by the Examiner, the subject matter of claim 1 will not be achieved because neither of the references teaches or suggests at least “monitoring means for ordering constitution of a specific measurement configuration in each measuring appliance as a function of ... a corresponding measuring process of a respective measuring appliance and overall measurement specifications, and calculation means for determining first data representative of parameter values of overall end-to-end data streams from local measurements delivered by the said configured measuring appliances.”

It is, therefore, respectfully submitted that **claim 1 and dependent claims 2-8, 16-18, 20-22, 25, and 28** distinguish patentably and unobviously over Iwama and Gous.

Dependent claim 16

Claim 16 recites among other elements: “an auxiliary calculation module to determine second data representing respective contributions of the coupled domains to the first data, from the local measurements delivered by said configured measuring appliances and said local measurement specifications.”

The Examiner asserts that Gous teaches the above-recited features of claim 16 in FIG. 2, by disclosing the changeover sequence data structure. (*See Answer*, page 28, paragraph 3).

Gous teaches an existing configuration 26, a desired configuration 28, and intermediate data structures. (Paragraph 36). The data structures are generated by module 30 and contain routing and bandwidth admission level. (Paragraph 34).

However, Gous does not teach or suggest determining “second data representing respective contributions of the coupled domains to the first data, from the local measurements delivered by said configured measuring appliances and said local measurement specifications.”

Iwama does not compensate for any of the above-discussed deficiency of Gous.

It is, therefore, respectfully submitted that **claim 16** distinguishes patentably and unobviously over Iwama and Gous, taken singularly or in combination.

Claim 29

Claim 29 recites features similar to those discussed above regarding claim 1. Therefore, arguments presented above regarding claim 1 are respectfully submitted to apply with equal force here.

2. Claims 23 and 24 are not unpatentable over Iwama, Gous, and Maher

Claims 23 and 24 depend on claim 1. Iwama and Gous do not meet all of the features of independent claim 1. Maher does not compensate for the above-identified deficiencies of these references. It is, therefore, respectfully submitted that **claims 23 and 24** are patentable at least by virtue of their dependencies.

3. Claim 27 is not unpatentable over Iwama, Gous, and Muirhead

Claim 27 depends on claim 1. Iwama and Gous do not meet all of the features of independent claim 1. Muirhead does not compensate for the above-identified deficiencies of these references. It is, therefore, respectfully submitted that **claim 27** is patentable at least by virtue of its dependency.

CONCLUSION

In view of the foregoing, Appellant respectfully requests that the Board reverse the Examiner's rejections of all claims on Appeal. An early and favorable decision on the merits of this Appeal is respectfully requested.

Respectfully submitted,

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